

App. No. 10/075,743  
Response to Office Action of December 16, 2004

### **REMARKS/ARGUMENTS**

Claims 2, 3, 5-9 and 13-18 are pending in this application. Claims 2-5, 9 and 18 are allowed. Claims 2, 3, 7 and 13 have been amended and claims 4 and 10-12 have been cancelled. Claims 13-16 are rejected, and claim 17 is objected to. The following issues are outstanding in the Office Action dated December 16, 2004:

1. Claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate of Claim 14, if found allowable;
2. Claim 13 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 13, line 4 "bioabsorbable cell-growth" should read – bioabsorbable or includable cell-growth – for language continuity. Claim 16 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;
3. Claims 13-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over WO 98/05873 ("Lina et al.") in view of U.S. Patent Application Publication 2003/0077311 A1 ("Vyakarnam et al"); and
4. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Each of these will be addressed in turn.

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Applicant thanks the Examiner for the allowance of claims 2,3, 5-9 and 18.

**1. Remarks on Claim 15**

Claim 15 has been amended to depend on allowed claim 18. Support for the amendment can be found at least in claim 6 as originally filed, and in the references incorporated into the present application. No new matter has been added. Claim 15 is now submitted to be in condition for allowance in view of the amendments and remarks herein below.

**2. Claim Rejections Under 35 U.S.C. § 112, Second Paragraph**

Claim 13 has been amended pursuant to the helpful recommendation by the Examiner in the Office Action. No new matter has been added.

In addition, claim 13 has been amended to include the limitations of claim 17, which was remarked by the Examiner to be allowable if rewritten in independent form.

Finally, claim 16 has been amended to overcome the rejection. Support for the amendment can generally be found on page 9, line 22 through page 10, line 9, and in other portions of the specification. No new matter has been added.

Accordingly, claims 13 and 16 are submitted to be in condition for allowance.

**3. Claim Rejections Under 35 U.S.C. § 103(a)**

As stated above, claim 13 is now in condition for allowance through the present amendment that incorporates the limitations of claim 17. The rejection therefore is requested to be withdrawn.

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**4. Objection to Claim 17**

Claim 17 has been canceled, and the elements of claim 17 have been incorporated into amended claim 13.

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**SUMMARY**

Believing it has addressed all matters raised by the Examiner's December 16, 2004 Office Action, Applicant respectfully requests timely action on the merits. The Commissioner is hereby permitted under 37 C.F.R. 1.16 and 1.17 to deduct or credit any fees that may be required from Kinetic Concept Inc. Deposit Account No. 500326.

If upon consideration of the above, the Examiner should feel that outstanding issues remain in the present application that could be resolved, the Examiner is invited to contact the undersigned at the telephone number indicated to discuss resolution of such issues.

Applicants respectfully request favorable consideration.

Respectfully submitted,



Robert W. Mason  
Reg. No. 42,848  
Attorney for the Applicant

KINETIC CONCEPTS, INC.  
P.O. Box 659508  
San Antonio, Texas 78265-9508  
TEL: (210) 255-6271  
FAX: (210) 255-6969